



1       2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4       3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **March 5, 2008**.

6       4. The material witnesses, Ana Maria Caravarin-De La Cruz, Brayant Fabian Martinez-  
7 Escalante, and Adara Leon-Morales, in this case:

8           a. Are aliens with no lawful right to enter or remain in the United States;  
9           b. Entered or attempted to enter the United States illegally on or about  
10 January 23, 2008;

11           c. Were found in rural terrain near the international border with Mexico and  
12 were being guided by defendant, and defendant knew of the fact that they were aliens with no lawful  
13 right to enter or remain in the United States;

14           d. Were paying and having others pay on their behalf \$2,000-\$3,000 to others  
15 to be brought into the United States illegally and/or transported illegally to their destination therein;  
16 and,

17           e. May be released and remanded immediately to the Department of Homeland  
18 Security for return to their country of origin.

19       5. After the material witnesses are ordered released by the Court pursuant to this  
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23           a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

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27       //

28       Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Juan Carlos Hernandez-Valdez

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

5 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
6 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
7 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
8 waives the right to confront and cross-examine the material witness(es) in this case.

9       6. By signing this stipulation and joint motion, defendant certifies that defendant has  
10 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
11 further that defendant has discussed the terms of this stipulation and joint motion with defense  
12 counsel and fully understands its meaning and effect.

13       Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
14 immediate release and remand of the above-named material witness(es) to the Department of  
15 Homeland Security for return to their country of origin.

16 It is STIPULATED AND AGREED this date.

Respectfully submitted,

~~KAREN P. HEWITT  
United States Attorney~~

DOUGLAS KEEHN  
Assistant United States Attorney

NORMA A. AGUILAR  
Defense Counsel for HERNANDEZ-VALDEZ

Juan Carlos Hernandez V.  
JUAN CARLOS HERNANDEZ-VALDEZ  
Defendant

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
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## ORDER

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

4           **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
5 forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 2/19/2008

Arthur Bonsu  
United States Magistrate Judge